

**REMARKS****I. Introduction**

Claims **41-90** are pending in the present application. Claims **41-86** have been withdrawn from consideration by the Examiner. Accordingly, only claims **87-90** remain for consideration, of which, claim **87** is independent.

Claims **87-90** stand solely rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,177,931 (hereinafter “Alexander”).

**II. Request for New Non-Final Office Action**

Applicants respectfully note that Alexander is a prior art reference *only* by virtue of a priority claim to U.S. Provisional Patent Application No. 60/034,784 filed on December 19, 1996 (approximately four (4) months prior to the priority date of the present application – April 2, 1997). Applicants further respectfully note that the portions of Alexander relied upon by the Examiner to reject claims **87-90** do not appear to be supported or described in U.S. Provisional Patent Application No. 60/034,784.

Accordingly, the current rejections of claims **87-90** are invalid and should be withdrawn. Any new rejections should be set forth in a new Non-Final Office Action.

**III. Request for Withdrawal of Finality**

Although the Examiner states that the new ground for rejection was necessitated by Applicants’ amendments, Applicants respectfully note that the extremely minor clarifying amendments presented in the previous response appear to have no bearing or effect in relation to the current rejections, and therefore could not have necessitated such new grounds for rejection. Indeed, the Examiner sets forth the new ground for rejection without even addressing the portions of the claims that have been amended.

Accordingly, the finality of the Final Office Action is premature and Applicants respectfully request, pursuant to MPEP §706.07(d) that the finality of the Final Office Action therefore be withdrawn.

**IV. Examiner's Characterization of Claims**

The Examiner states that claims **87-90** are directed to a method “which provide interactive video distribution based on viewing history with upstream communication.” Final Office Action, pg. 2, 4-5 lines from the bottom. While this description presented by the Examiner seems to be relevant to Alexander, which recites a TV program guide, Applicants cannot comprehend how this description is applicable to any of claims **87-90**. Nowhere, for example, do any of claims **87-90** recite limitations directed to “interactive video distribution” nor “a viewing history” of such distributed video.

**V. Related Applications**

Applicants respectfully give notice to the Examiner that at least four (4) pending applications are pending that are related to the present application. U.S. Patent Application Serial Nos. 11/421,923 and 11/531,353 are to be designated as Divisional Applications claiming priority to the present application, for example, and U.S. Patent Application Serial Nos. 11/421,591 and 11/421,987 are designated as Continuation Applications that claim priority to the present application. It is further anticipated that two (2) more Divisional Applications will be filed that claim priority to the present application, and Applicants will give notice of the serial numbers of those applications to the Examiner upon their filing.

**VI. Conclusion**

At least for the foregoing reasons, it is submitted that all claims now under consideration are in condition for allowance, ***or in better form for appeal***, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Carson C.K. Fincham at telephone number 203-461-7017 or via electronic mail at [cfincham@walkerdigital.com](mailto:cfincham@walkerdigital.com), at the Examiner's convenience.

**VII. Petition for Extension of Time to Respond**

While no fees are believed to be due at this time, please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

Respectfully submitted,

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Date

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